STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 98-306

June 30, 1998

PUBLIC UTILITIES COMMISSION
Bill Unbundling and Illustrative Bills (Chapter 309)

ORDER ADOPTING RULE AND STATEMENT OF FACTUAL AND POLICY BASIS

WELCH, Chairman and NUGENT, Commissioner

Pursuant to 35-A M.R.S.A. § 3213(1), the Commission must adopt a rule that requires bill unbundling and illustrative bills. 35-A M.R.S.A. § 3213(1) states:

> Beginning January 1, 1999, electric utilities shall issue bills that state the current cost of electric capacity and energy separately from transmission and distribution charges and other charges for electric service. By January 31, 1998, each electric utility shall file with the commission a bill unbundling proposal. The commission shall complete its review of those proposals and adopt a rule establishing unbundled bill requirements by July 1, 1998. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

We issued a Notice of Rulemaking on April 28, 1998 and have received comments from Bangor Hydro-Electric Company (BHE), Central Maine Power Company (CMP), Dirigo Electric Cooperative (Dirigo)[1] and Maine Public Service Company (MPS).

The purpose of bill unbundling is to provide electric consumers with an illustration of one of the effects of electric restructuring that will occur on March 1, 2000. At that time, a competitive market will exist for electricity supply (generation),[2] which will be sold separately from delivery

[1]The Dirigo Electric Cooperative includes member utilities: Eastern Maine Electric Cooperative ("EMEC"); Fox Islands Electric Cooperative ("FIEC"); Houlton Water Company ("HWC"); Kennebunk Light and Power District ("KLPD"); Madison Electric Works ("MEW"); Swan's Island Electric Cooperative ("SIEC"); and Van Buren Light and Power District ("VBLPD").

[2]The proposed rule used the term "generation." The adopted rule uses the term "electricity supply." *See* discussion under §

services (transmission and distribution). Delivery services will continue to be sold by regulated transmission and distribution (T&D) utilities. Bill unbundling reflects one aspect of electric restructuring through the separation of current bills into two components: electricity supply (electric energy and capacity) and delivery services (transmission and distribution). Present bills combine those two components in a single rate for total electric service (or set of rates, if the customer's rate includes demand or customer and energy components).

Prior to commencing this Rulemaking, the Commission conducted an inquiry into issues concerning bill unbundling in which we solicited and received comments. *Public Utilities Commission, Inquiry Into Rules Governing Bill Unbundling*, Docket No. 97-587. In addition, the Commission held a technical conference on March 25, 1998 to discuss various issues.

In part because of comments made during the Inquiry, we proposed a rule that should require modest changes in current bills used by utilities. We make changes to the proposed rule based on comments filed in the rulemaking. The rule does not require unbundled bills to contain substantial amounts of new information. It requires unbundling only of the illustrative electricity supply rates. It does not require extensive analysis for a utility to determine the illustrative electricity supply rate or rates that will be unbundled. It also does not require (although it permits) illustrative electricity supply rates stated in bills to reflect a rate design for electricity supply service.

By the terms of section 2, the rule applies only to bills issued before restructuring occurs, i.e., bills issued between January 1, 1999 and February 29, 2000. In addition, section 8 provides that the rule expires on March 1, 2000.[3]

Because of the relative simplicity of the rule, we do not find that it is necessary in this Order to describe in detail each section or the rationale for many of the provisions. Nevertheless, explanations of some provisions may be helpful. We also address the comments directed to various sections.

§ 1 Definitions

BHE commented that use of the term “generation” in bills was likely to be confusing to many customers. BHE further stated that it would propose an alternative description of the unbundled service when it submitted its bill format as required

1 below.

[3]One comment about bills after February 29, 1998 made by BHE suggests that it was not aware that this rule does not apply after that date.

by section 4. CMP made no specific comment that it believed that the word "generation" was not readily understandable. Nevertheless, in its proposed redraft of the notice that section 5 requires to be included on each bill, CMP proposed using the term "electric energy." We agree that "generation" is not likely to be meaningful to many consumers and that "electricity," "power" or "energy" all better convey the portion of electric service that will be sold separately in the future and that must be unbundled on bills. The statute requiring bill unbundling, 35-A M.R.S.A. § 3213 does not use the word "generation." Rather, it refers to the "sale of electric energy and capacity." We believe that the phrase "electricity supply" is a phrase that serves as a fair shorthand for "the sale of electric energy and capacity." We avoid the term "energy" because the production and sale of electricity include capacity as well as energy.

In the Notice of Rulemaking, we proposed that "delivery service" be defined as the "transmission and distribution services provided by an electric utility." CMP commented that we should define "delivery service" to include "all costs included in current rates except costs for the illustrative rate for generation service." It is possible that such a definition is over-inclusive. Nevertheless, for the simple illustrative unbundling that this rule requires, we find that it is appropriate to include in "delivery service" all services that are not part of "electricity supply" even if they are not also readily categorizable as "delivery."

§ 3 Preliminary Filing of Unbundled Generation Rates; Approval

Section 3 requires each electric utility to file a proposed illustrative unbundled rate for electricity supply (or rates, if the utility chooses to apply a rate structure to generation rates, as is permitted by § 5(A)(1)(c)). At the technical conference held during the Inquiry, various possible standards for establishing the level of these rates were discussed, e.g., long-run marginal cost of generation and the current prices that certain utilities pay for generation under contract. We proposed only a general standard that the unbundled rate should reasonably represent the market price in the current or near term. We see no reason to require utilities to expend great effort trying to predict future rates in the competitive generation market. The purpose of bill unbundling is to provide customers an illustration of the fact that electricity supply and delivery services will be sold separately and that, under electric restructuring, bills will reflect that separation.

The unbundled rates for electricity supply service that are required by this chapter are illustrative. They are not

filed rates within the meaning of 35-A M.R.S.A. § 304. Accordingly, it is not necessary for the Commission to approve the rates or to determine that they are "just and reasonable." The approval of these illustrative rates is delegated to the Director of Technical Analysis, who must determine only that the basis for utility's estimate is reasonable and that it reasonably reflects current or near term-market conditions.

We received no comments on section 4 except for one by CMP addressing the proposed time periods for actions by the Director of Technical Analysis. The proposed rule would have required utilities to file proposed unbundled illustrative rates for electricity supply “on or before” October 1, 1998. The Director of Technical Analysis would then provide notice of any questions or grounds for rejecting any rate on or before October 15, 1998, and would have to approve the rates or order revisions by December 1, 1998. CMP suggested that the time spans should be as provided in the proposed rule (15 days and 45 days) but that both time periods should run from date the utility made its filing rather than from October 1, 1998, the last day a utility may file. CMP proposed the change in order to “enable utilities to obtain an early indication of any questions or concerns which must be addressed by filing their proposals prior to the deadlines.” We agree that the change proposed by CMP is reasonable.

§ 4 Preliminary Filing of Proposed Bills; Approval of Format

This section delegates to the Director of the Consumer Assistance Division (CAD) the obligation to approve the format of bills that will be issued by utilities after January 1, 1999. The Director is to determine only that bills comply with the format requirements of section 5(B). The actual content of unbundled bills (the rate and charge information and the informational statement) is governed by section 5.

As in the case of section 3, CMP’s comments propose that this section provide that if a utility files its proposed bill format prior to the date final for filing stated in the rule (September 1, 1998), the time periods for actions by the Director of CAD shall run from the actual filing dates rather than from September 1, 1998. Under proposed section 5, the Director would have to issue a notice of objection or grounds for rejection by September 22, 1998 (21 days after the final filing date) and an order approving the bill format or requiring modifications by October 30, 1998 (60 days after the final filing date).

CMP has proposed not only that the time periods run from the filing date, but that the time periods for the required

actions by the Director should be 15 and 45 days, the same limits contained in section 4 for approving unbundled electricity supply rates. We agree that time periods for action by the Director of the CAD should run from the date of filing rather than from the last date allowed for filing. We do not agree, however, with one of the time spans proposed by CMP. We chose the longer time spans for proposed section 4 because bill formats are likely to present more complex issues than those presented by the electricity supply rates. We do agree that the Director should be able to issue a notice of objections or grounds for rejection within 15 days (rather than 22 days), but the Director may need the full 60 days to address all issues and to issue a final order. We therefore modify the proposed rule to require a notice of objection or grounds for rejection within 15 days after a utility has filed a proposed bill format, and an order approving the bill format or ordering changes within 60 days following the filing. The final date for filing proposed bill formats will be on September 1, 1998, as proposed.

§ 5 Contents and Format of Unbundled Bills

Section 5 describes the content and the format for the unbundled rate and other information that will appear on bills. It requires bills to state separate illustrative rates and charges for electricity supply and for delivery services.

Section 5(A)(2) also requires a specified informational statement to be included on each bill. The informational statement describes electric restructuring and the purpose of showing separate rates and charges for generation and delivery services.

We received several comments about proposed section 5. Proposed section 5(B)(1)(c) would have required utilities to show the “total combined (bundled) rate for electric service and applicable usage.” CMP commented that this requirement would be “meaningless” for its customers because of the way it plans to unbundle bills, and that “nothing like a combined rate for electric service is shown on bills today.” CMP plans to use the simplest method of unbundling that is permitted by section 5(A)(1)(a) and (b). Those provisions allow unbundling of an electricity supply rate “without a breakdown of a rate into separate rate elements such as demand and energy.” Thus, CMP will unbundle only a usage-based kWh rate for all of its rate classes. Rate elements such as customer charges and demand charges are unchanged and will be grouped together under “delivery services.” To the extent that there is a remaining usage-based rate (kWh) left over after the unbundling of the electricity supply rate, CMP intends to include it in delivery services.

CMP argues that for those rate elements that are not affected by unbundling, the rate is unchanged from prior bills, and are the same as those contained in CMP's rate schedule. We agree that repeating those rates both under both a delivery services and a "total" category would be redundant. We are concerned, however, that in the case of a rate element that is unbundled, some customers may be confused if the rate that is presently familiar to customers (and is also contained in the electric utility's rate schedule) does not appear anywhere on the bill. We therefore will require that when an existing rate element is split into electricity supply and delivery components, the combined, tariffed rate shall also be stated in some manner reasonably noticeable by customers. One possible method is to use columns that contain the rates (or minimum charges) for each line.[4] If that is not possible, it may be possible for a utility to include the combined rate in the statement required by section 5(A)(2).

BHE and MPS separately commented that it is not feasible or informative to state a "rate" (at least a kWh rate) when a customer uses less than the minimum allowed under a minimum rate. MPS expressed the concern that it would have to calculate a derived nonexistent kWh rate: for example, if a minimum charge for 100 kWh was $12.00 and a customer used 40 kWh, the derived rate would be $.30 per kWh. The proposed rule requires a statement of the "applicable rate or rates." It was not our intent to require utilities (or billing systems) to calculate a nonexistent derived rate. The "applicable rate" could include a minimum charge. We have modified the rule to make clear that, where applicable, the bill may state the minimum charge rather than a kWh rate.

BHE suggests that when a customer uses less than the minimum, the rate could simply be stated as "minimum." The final rule requires bills to state the amount of any applicable unbundled minimum charge. The example provided by BHE in its comments described the "rate" as "minimum," but also stated the actual amount of the minimum charge. The rule does not expressly require a description of such a charge as a "minimum," but such a description provides additional information for customers.

[4]For example,

	Electricity Supply	**Delivery Service**	**Total**
100 kWh	$4.00	$8.00	$12.00
Next 300 kWh	0.04	0.08	36.00
Next 48kWh	0.04	0.105	6.96
Electricity Supply 448kWh @ .04			$17.92
Delivery Service 448kWh @ rates shown above			$37.04

BHE also discusses potential problems with the declining or inverted rate structures, noting that a line for each block might be necessary under both electric supply and delivery service. We see no way around this problem if the declining or inverted blocks apply to both portions of the rates. The problem is also not likely to disappear after restructuring.[5]

CMP has proposed a different content for the informational message required by section 5(A)(2) to appear on bills. CMP claims that its proposed message is more understandable. We agree, and we adopt it with some modifications.

CMP also urges us to eliminate the requirement of a box around the message, claiming that its billing system cannot make such a box. Our concern is that the message be sufficiently prominent. We have modified the provision to require a sufficient degree of prominence overall, based on type size, location and, if possible, framing.

Dirigo comments that the informational statement "will not fit on the current electric bills." It is not clear whether Dirigo is claiming that none of its seven member utilities can do so. If true, and if it is not feasible for some or all of these utilities to fit the informational statement on the front of the bill, those utilities may request a waiver from the requirement. We retain the requirement in the final rule because we believe that statement is best located in close proximity to the unbundling that should occur on the bill itself.

Dirigo also states that:

> . . .including a statement on an actual bill that a portion of the bill is illustrative may be confusing. Consumers may not realize that the bill they receive must be paid.

We disagree. In our view, the statement will assist customers in gaining an understanding of the changes about to take place in their electric service. It clearly states that the total amount of the customer's bill is not changed. Placing this statement in a less prominent location may lead to greater customer confusion.

[5]BHE goes further, and posits a total of up to 20 lines if a customer were to have two services and it were necessary to prorate a bill during a monthly period, e.g., when rates change. In such an event, BHE might consider sending separate bills for each service, and, if necessary, separate bills for each portion of a prorated billing period. Under appropriate circumstances, the Commission may grant a waiver to any of the requirements of the rule.

Utilities may, if they share Dirigo's concern, indicate on the bill that the bill must be paid.

MPS also claims that the required statements will not fit on its bill, and that it will seek a waiver. MPS provided a sample bill with its comments. The bill appears to contain sufficient room for the statement, at least in the case of the relatively simple residential bill provided. Generally, the informational statement should be placed in close proximity to the unbundled rates so it will contribute to customer understanding of the bill. Placement on the bill is more important for residential and small commercial customers. Those bills generally have fewer rate elements and therefore more available space. We will be more inclined to grant waivers of the placement requirement for bills that are sent to larger customers.

Dirigo further suggests that the illustrative bills should be printed on the back of the actual bill or as a separate enclosure and should clearly state that this second “bill” is for illustrative purposes only. Dirigo does not explain why it believes that approach is advantageous or necessary, but does state that "as an alternative to generating an 'illustrative bill,'" some of its member utilities can comply with the rule as proposed. Dirigo included a sample bill from one of its members that did conform to the proposed rule. Dirigo may be proposing the use of a second illustrative bill because some of its member utilities do not have sufficient space on the front of their bills for the required illustrative bill unbundling information.

We adopt the provision as proposed because we believe that customers are more likely to notice the unbundled information if it appears on the actual bill. Some customers may ignore a separate illustrative bill. It also is not obvious that separate "bills" would lead to greater customer understanding than inclusion of the illustrative electricity supply information on the main bill. In an exercise such as bill unbundling, it is not possible to avoid all misunderstanding. If it is not practical or is too expensive for a utility to include the illustrative bill unbundling information on the face of the bill and, the utility may, through the waiver process of section 7, propose any reasonable alternative, including separate illustrative bills.

Dirigo indicates that its members intend to separate out the price for electricity supply based on their “actual cost per kWh of purchased power supply.” Dirigo has proposed a modification to the statement that indicates that particular

basis for unbundled amount. The statement we have included in section 5(B)(2) is intended for general use throughout the State. Dirigo members may, pursuant to the processes of sections 4 and 7, propose an alternative statement that better describes the circumstances of those utilities.

Finally, Dirigo comments that the term “delivery service rates” should be labeled “illustrative” because those rates would be calculated as the difference between the total rate for electric service and the applicable illustrative generation rate. Dirigo is correct that both portions of the unbundled “real” rate are “illustrative.” The rule describes both categories of the rates themselves as “illustrative.” The rule does not require the label "illustrative" to appear on bills and it will leave to the discretion of each utility whether the use of that label on line items on the bill will promote or impede customer understanding. However, the informational statement required by section 5(A)(2) states, in boldface, that the separate rates and charges, are “for illustration only.”

We recognize, as is indicated by the second paragraph of section 7 (Waiver), that it is often difficult and expensive to make substantial alterations in utility’s billing systems and that even the size of bills is not easily changeable in the short term. We therefore encourage utilities to meet all of the requirements of section 5, but we will grant appropriate waivers whenever compliance is not feasible or is too expensive. Utilities that request waivers should propose alternatives, both as to information content and format, that will satisfy the broad purpose of this rule of providing customers with basic, easily understandable information about the unbundling of electric supply and delivery services.

§ 6 Rate Design for Standard Offer Bidding and Service; Updating of Bills

Chapter 301 of the Commission's rules (Standard Offer Service), contains provisions that address standard offer service. Section 2(A)(2) and (3) provide that the rate structure shall be as established in this rule (Chapter 309). Section 2(A)(3) states:

> Rates for standard offer service shall be a uniform percentage, across and within customer classes, of each unbundled generation rate element of the core customer classes of the transmission and distribution utilities, as established by the Commission in the bill unbundling proceedings for each

transmission and distribution utility pursuant to 35-A M.R.S.A. § 3213(1).

Section 7(B)(2) of Chapter 301 states that standard offer bidders shall "conform to the requirements of [Chapter 301,] sections 2(A)(2), (3) and (5)."

Establishing a reasonable rate design for standard offer service in advance of the bidding process is critical, because, under Chapter 301, standard offer bidders must bid a single uniform percentage of all established rate elements. As discussed above, for the purpose of illustrative generation rates and illustrative bill unbundling, we have not proposed that utilities must establish and apply a rate design to those rates. Rather, they may use a single rate across all rate classes. The rule does permit utilities to apply a rate design and to have different rates for different rate classes, but it may not be feasible for all utilities to do so. In any event, any such rate design would be conjectural and is not likely to be sufficiently precise to be used for the purpose of standard offer bidding or standard offer service.

In this rulemaking we proposed that section 6(A) will serve as the repository for the rate design that must be used for standard offer bidding and standard offer service, but that actual substantive rate and rate design structure decisions will take place elsewhere, most likely in relation to the proceedings that the Commission is conducting pursuant to 35-A M.R.S.A. §§ 3208 and 3209. No person commented on this provision.

Accordingly, it is

O R D E R E D

1. That the attached Chapter 309, bill unbundling and illustrative bills, is hereby adopted;

2. That the Administrative Director shall file the rule and related materials with the Secretary of State; and

3. That the Administrative Director shall send copies of this Order and attached rule to:

   A. All electric utilities in the State;

   B. All persons who have filed with the Commission within the past year a written request for notices of rulemakings;

C. All persons on the Commission's list of persons who wish to receive notice of all electric restructuring proceedings;

D. All persons who have filed comments in Docket No. 98-306; and

E. The Executive Director of the Legislative Council, State House Station 115, Augusta, Maine 04333 (20 copies).

Dated at Augusta, Maine this 30th day of June, 1998.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.

2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320 (1)-(4) and the Maine Rules of Civil Procedure, Rule 73 et seq.

3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320 (5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.